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No. 80-2150

In the Supreme Court of the United States

October Term, 1981

DONALD FINNEGAN, *et al.*,
Petitioners,

vs.

HAROLD E. LEU, *et al.*,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

JOINT APPENDIX

SAMUEL G. BOLOTIN, *Counsel of Record*
BOLOTIN & BOLOTIN CO., L.P.A.
Second Floor, Gardner Building
506 Madison Avenue
Toledo, Ohio 43604
(419) 241-1900
Counsel for Petitioners

JACK GALLON
JEFFREY JULIUS, *Counsel of Record*
GALLON, KALNIZ & IORIO CO., L.P.A.
3161 N. Republic Boulevard
Toledo, Ohio 43615
(419) 535-1976
Counsel for Respondents

Petition for Certiorari Filed June 17, 1981
Certiorari Granted October 5, 1981

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RELEVANT DOCKET ENTRIES OF THE UNITED STATES DISTRICT COURT—Case No. C 78-8

1- 6-78 Complaint fld

1- 6-78 Pltf. mo. for preliminary injunction, fld.

1-18-78 Ordered that the pltfs' motion for a preliminary inj. is overruled, filed. DJY Copies to Lackey and Gallon.

1-31-78 Ans. of def. International Brohd., fld. c.m.

3- 1-78 Deft. Leu Answer, filed. Copies served.

8-25-78 Deft. MOTION for summary judgment, filed. Attached memo. in support. Copies mailed.

8-31-78 MOTION of def. Harold Leu for summary judgment w/ attached memo in support, fld. cm.

3-30-79 OPINION AND ORDER of the Court, filed. DJY 77(d) copies mailed. Ordered that the motion of the deft. union for leave to file a reply brief is sustained, and the clerk shall file the previously lodged; f.o., that the motions of defts. for summary judgment are sustained and the clerk shall enter judgment in accordance.

3-30-79 JUDGMENT ON DECISION BY THE COURT, filed. Copies mailed. Ordered and adjudged that judgment is entered in favor of the defts. and the complaint is dismissed. (Exhibits in file in basement)

4-30-79 NOTICE OF APPEAL by Pltf. filed. Copies mld. by clerk to: Lackey, Bolotin, Schank, Allotta and Hasbrook. True copies of docket

entries and notice mld. to Sixth Circuit Court of Appeals.

8–19–81 ORDER of Sixth Circuit, filed 3-23-81. Judgment affirmed for reasons set forth in opinion of 3-30-79. Issued as MANDATE 8-17-81; Costs: None.

RELEVANT DOCKET ENTRIES OF THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT—Case No. 79-3415

7–17–79 Appeal Docketed

3–23–81 Order of the Sixth Circuit affirming the District Court

3–30–81 Judgment affirmed for reasons set forth in Opinion

8–17–81 Issued as Mandate

Case No. C 78-8

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

RAYMOND NAVARRO,

and

DONALD FINNEGAN,

and

JAMES ROOT,

and

EDWARD STRICKLIN,

and

WILLIAM TANK,

and

DON JAHNS,

and

LEVERNON HUBBARD,

and

CHARLES WINTERS,

and

DENVER PHILLIPS,

and

FRANK HOWALD,

and

RICHARD EDDINGTON,

and

HARRY STARKEY,

and

RON BOWMAN,

and

BOBBY HANEY,

and

JOHN CLARK,
Plaintiffs,

VS.

HAROLD D. LEU, Individually and in his capacity as President of INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, LOCAL 20,

and

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, LOCAL 20,
Defendants.

COMPLAINT

(Filed January 6, 1978)

Now come the Plaintiffs, by and through their attorneys, Green, Lackey, Newcomer and Harris, and for their cause of action state as follows:

1. This is an action to redress violations of the Labor-Management Reporting and Disclosure Act, 29 U.S.C.A., §§401, *et seq.*, Pub. L. 86-257, §2, Sept. 14, 1959, 73 Stat. 519. This Court has jurisdiction pursuant to 29 U.S.C.A. §412.

2. Plaintiffs are residents of this judicial district, citizens of the United States, and members in good standing

of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 20 (hereinafter Local No. 20) who were, until January 3, 1978, employed as appointed Business Agents for Local No. 20.

3. Defendant Harold Leu is the duly elected President of Local No. 20, who took office on January 1, 1978. Defendant Local No. 20 is a voluntary unincorporated association commonly known as a labor union.

4. In November, 1977, Local No. 20 had nominations of officers for its election scheduled for December 9, 10, 11 and 12, 1977. Two slates of candidates were nominated and sought election to union office. One slate was headed by Omar L. Brown, the other slate by Defendant Harold Leu.

5. Plaintiffs exercised their right to express their views on the candidates throughout the campaign for election of office and did so in support of the Omar L. Brown slate. As a result of the election, which took place on the aforementioned dates in December, Harold Leu was elected President of Local 20 and took office on January 1, 1978.

6. On January 3, 1978, on his first work day in office, Defendant Harold Leu summarily and without notice discharged from employment as Business Agent each of the Plaintiffs in this action for and as a result of their campaigning, expressions of support and voting for his opponents in the Local No. 20 officers election.

FIRST CAUSE OF ACTION

7. Plaintiffs incorporate and reallege the facts contained in Paragraphs 1 through 6 as set forth above.

8. Defendant Harold Leu's discharge of each of the Plaintiffs because of their expressions of support for Omar L. Brown in the Local No. 20 officers election infringes

upon Plaintiffs' equal right and privilege to vote in the election and participate in the deliberations of Local No. 20, which rights are protected by 29 U.S.C.A. §411(a)(1).

SECOND CAUSE OF ACTION

9. Plaintiffs incorporate and reallege the facts contained in Paragraphs 1 through 8 as set forth above.

10. Defendant Harold Leu's discharge of each of the Plaintiffs because of their support of Omar L. Brown in the Local 20 officers election violates Plaintiffs' right to freely meet and assemble with other members of Local No. 20 and express their views, arguments and opinions upon candidates in an election of Local No. 20 in violation of 29 U.S.C.A. §411(a)(2).

THIRD CAUSE OF ACTION

11. Plaintiffs incorporate and reallege the facts contained in Paragraphs 1 through 10 as set forth above.

12. Defendant Harold Leu's discharge of each of the Plaintiffs because of their support of Omar L. Brown in the Local No. 20 officers election is in fact discipline of Plaintiffs for exercising rights of free speech, assembly, voting and expression of views protected by 29 U.S.C.A. §411(a)(1) and (2), all of which is in violation of Title 29 U.S.C.A. §529.

13. That Plaintiff's and other members' rights guaranteed by law to free expression, assembly and the right to be free from discipline as a result of those expressions and assembly have been and will be chilled by Defendant Leu's action and thus they have been irreparably harmed and have no adequate remedy at law.

14. That Plaintiffs have filed internal union charges against Defendant Harold Leu but that no adequate and complete remedy exists under the Constitution and By-

Laws of either the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, or Local No. 20 to adequately remedy Plaintiffs, and as a result of dissension within the local attempts at exhaustion would be futile.

15. That Defendant Harold Leu's action in summarily discharging the Plaintiffs for the sole reason that they expressed support for and voted for and on behalf of his opponent in the Local No. 20 election was willful, wanton and malicious.

WHEREFORE, Plaintiffs pray:

(1) That this Court accept jurisdiction of this cause;

(2) That the Court issue a preliminary order mandating that each of the Plaintiffs be immediately restored to his former position as Business Agent for Local No. 20 at the same wages and working conditions as they enjoyed before such unlawful discharge;

(3) That upon final hearing the preliminary order be made permanent;

(4) That Plaintiffs be accorded compensatory damages in the amount of their wage and benefit loss to the date of their restoration to their former positions, as well as damages for mental suffering and humiliation;

(5) That Plaintiffs recover of Harold Leu punitive damages in the amount of $150,000.00;

(6) That Plaintiffs be awarded attorney fees and costs of this action and such other relief as the Court deems just and proper in the premises.

Respectfully submitted,

GREEN, LACKEY, NEWCOMER & HARRIS
By: /s/ GERALD B. LACKEY/SSB
By: /s/ SAMUEL G. BOLOTIN

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title omitted in printing)

TRANSCRIPT OF HEARING ON PRELIMINARY INJUNCTION

(Hearing Commenced January 17, 1978)

APPEARANCES:

GERALD LACKEY and SAM BOLOTIN,
In behalf of the Plaintiffs,

JACK GALLON and TED IORIO,
In behalf of the Defendants.

TRANSCRIPT OF HEARING ON PRELIMINARY INJUNCTION in the above-entitled cause of action, before the Hon. Don J. Young, on Tuesday, January 17, 1978.

* * * * *

[16] PLAINTIFFS' EVIDENCE

THEREUPON, the plaintiffs called as a witness, MR. DANIEL G. FARBROTHER who, having been previously duly sworn by the Clerk, testified as follows:

DIRECT EXAMINATION

By Mr. Lackey:

* * * * *

[18] Q. When was the first significant contest in a Local 20 election, to the best of your recollection? A. I believe it was 1974.

Q. Can you tell us who the top protagonists in that election were, please? A. The two contestants for the president's position was Omar Brown and Harold Leu.

Q. Who won the election in 1974? A. Mr. Leu.

Q. By how many votes, if you remember? A. By approximately forty or fifty some votes. It is in that neighborhood. I don't recall the exact figure.

Q. What happened after that election? A. There was charges filed by Mr. Brown. The International investigated and another election took [19] place in September, 1975.

Q. And who were the contestants at that time? A. Mr. Brown and Mr. Leu again.

Q. Who won that election? A. Mr. Brown.

Q. By how many votes? A. By about five hundred, I believe.

Q. In September, 1975? A. Yes, correct.

Q. Was that a hotly-contested election campaign as well? A. Yes, it was.

Q. Now, there was a more recent election, in December, 1977, was there not? A. That is correct.

Q. And the same two persons, Mr. Brown and Mr. Leu, were running for the presidency of Local 20? A. They had the slates, that is correct.

Q. Was that a vigorously conducted election? A. Yes, that was.

Q. There was a lot of electioneering on both sides? A. That is correct.

* * * * *

[20] Q. Now, you testified that since November, 1976, you were the administrative assistant to Mr. Brown, who was then president of Local 20? A. That is correct.

Q. What were your duties in that position? A. My duties consisted of handling the day in and [21] day out

activities of the business agents and to assist and direct them in their negotiations, the handling of their problems. It is the daily administrative duties.

Q. Approximately how many business agents were there employed by Local 20 during the time you were administrative assistant? A. I would say in the neighborhood of seventeen.

Q. How do you become a business agent of Local 20? A. He is appointed by the president.

Q. Now, business agents are full time, paid positions of the local union? A. That is correct.

Q. Now, is it fair to say that at least from and since November, 1976, it would be you that would know as much about the work practices and abilities of business agents than any other person in the local? A. I would assume that to be a correct statement.

Q. Prior to January 3, 1978, were you ever approached by the Defendant Leu and asked about any of the work habits or performance of any of the business agents of Teamsters' Local 20? A. No.

Q. Between the time of the election, which I understand to have been from December 9 through 12, 1977, [22] is that correct? A. Yes.

Q. Between the time of the election and the time that the results were finally announced were there staff meetings of the Teamsters' Local 20 business agents staff? A. Yes. There was a weekly staff meeting held, and that was the practice under Mr. Brown's administration and everybody's administrations at Local 20 to have weekly staff meetings, and there were meetings in December through the elections, prior to and after.

Q. Was one of your functions as administrative assistant to the president to chair the staff meetings? A. Yes, the overwhelming number of them are chaired by myself.

Q. Between December 9, 10, 11 and 12, 1977, and the time when the official results of the election were announced, which was somewhere around December 29th, is that correct? A. That is correct.

Q. Was there any discussion in staff meetings by you or others regarding the continued employment by Local 20 of the business agents? A. Yes, on more than one occasion we had asked the staff that regardless of the outcome of the election [23] that they stay on and serve the local union, and Mr. Brown at a staff meeting, that he also conducted, made a personal request to these people to stay on and serve the local union, and he asked them to break any political ties they had so that they could do their jobs better because he felt the most important job was to serve the membership of Local 20.

Q. Did you attend the staff meeting on January 3, 1978? A. Yes, I did.

Mr. Lackey: May we get a stipulation that at the staff meeting the plaintiffs were summarily discharged by President Leu?

Mr. Gallon: We have a verbatim transcript of what was said, prepared by the secretary to Omar Brown. We would be willing to stipulate that was everything said.

Mr. Lackey: I asked you whether or not you would stipulate that that the plaintiffs were summarily discharged.

* * * * *

[24] Q. (Continuing) Mr. Farbrother, can you tell us what occurred at that meeting? We have a stipulation now. Can you tell us whether or not Mr. Leu offered any reasons for the summary discharge of the business agents? A. I can't recall everything. Some of the things that do stand out in my mind was that Mr. Leu indicated

to the staff that he was terminating them; that during the campaign there were things that had been put in flyers and leaflets which apparently had an effect on him and his family; that no one had ever come to him and said it was not true; that he felt that their allegiance was to Brown in the campaign. He commended them on it, but he felt that their loyalty was to Mr. Brown and felt that they couldn't fulfill his policies and his programs, and so, you know, they couldn't work into his plan. I mean there were a lot of other things said, too, but to me that is the sum and substance of what went on.

* * * * *

[28] CROSS EXAMINATION

By Mr. Gallon:

* * * * *

[30] Q. Aren't these various employers and members of the union continuously coming to the union with problems they have under these contracts? A. That is correct.

Q. Isn't it the first purpose of the business agent to carry out those duties, that is, to try to satisfy the various problems or resolve the various problems which these members raise? A. That is correct.

Q. And isn't it the president and only the president as the chief executive who decides who supervises these business agents? A. Not in accordance with—I think if you want to put the ultimate as to who is or who has the responsibility, yes, but the administrative assistant—

Q. (Interposing) I meant that he is the ultimate supervisor. A. Yes, I agree.

Q. And he sets the policies as to the business agents as to where they will work, correct? A. Yes.

Q. Isn't he under the constitution—he alone—[31] the only one who can sign contracts in behalf of the local? A. Yes.

Q. He directs which business agents to negotiate which contracts? A. Yes.

Q. Doesn't he give the final approval after the contracts have been concluded as to what provisions must be in these contracts? A. That is true.

* * * * *

[32] Q. The other great enterprise of the union is organizing the unorganized? A. Yes.

Q. Is that officially under the control of the president? A. Yes.

Q. Doesn't he supervise the business agents and decide the policies in regard to organizing? A. That is correct.

Q. These various duties of the business agents that we have talked about—carrying out the policies of the president and so on—from your experience, having worked under four different presidents, hasn't [33] it always been historically true in this union that it it important that the business agents support the president and his policies? A. That is correct.

Q. And if a business agent does not support the president he is not there anymore, is he? A. I can't recall of anybody being discharged.

* * * * *

Q. So it was clearly understood by each of these business agents that you supervised that they hold their jobs as business agents as long as they satisfied the president? A. Yes, I would have to say that is true, because they have one job to do and that is to serve the membership, and it is the goal of the president to do the best for the membership.

Q. Am I correct that one of the main issues in the recently completed, very active campaign was Harold [34] Leu's allegation that the membership were not getting proper service as members of the union? A. That was his position.

Q. Wasn't that his platform? A. Yes.

Q. And didn't he indicate in his campaign literature that if elected president he would make sure that the members did get good service? A. That is correct.

Q. Now, to your knowledge did any of the plaintiffs ever come up to Harold Leu and say to him, "We can be loyal; we can work for you; we can put in the policies you want us to put in"? A. Not to my knowledge.

* * * * *

[38] Q. And haven't you seen the various plaintiffs since their discharge coming in and out of the building and going into and out of that office? A. Some of them have, yes.

Q. Haven't you been aware of the fact that these plaintiffs have been traveling to their former jobs they had when they were business agents getting petitions signed by members trying to set up a new election? A. I am aware of that.

* * * * *

Q. Am I correct that during the last campaign you were an Omar Brown supporter? A. That is correct.

Q. And also Donald Sarver, was he not an Omar Brown [39] supporter? A. That is correct.

Q. And also Jimmy Cassidy, was he also a Brown supporter? A. That is correct.

Q. Weren't these three people business agents at the time under Omar Brown? A. Yes.

Q. They have been retained as business agents? A. That is correct.

Q. Isn't there also a Local 20 employee in the Bryan office of Local 20? A. Yes.

Q. And that employee is still there? A. Yes.

* * * * *

Q. And was there also another employee by the name of Mary Jane Gill who was employed by either the joint council or Local 20? A. By Local 20.

Q. And she is still there as an employee of Local 20? [40] A. That is correct.

* * * * *

[44] Q. (Continuing) At this meeting you attended on January 3rd isn't it true that Harold Leu stated at that meeting that he had run on a campaign seeking to have better representation for the membership? A. That could be.

Q. And didn't he say that if Brown had done his job he would be in and not out? A. That is correct.

Q. And didn't he indicate that he was going to hire a team that would be loyal to him? A. That is correct.

Q. And didn't he at that meeting indicate that he wanted to have with him as business agents those who had worked during the campaign and found out what the problems were and what the members wanted, or words to that effect? A. Well, I don't believe—the only difference there is I don't believe that they were aware of the problems. He said he was aware of the problems.

* * * * *

[48] RE-DIRECT EXAMINATION

By Mr. Lackey:

* * * * *

Q. Are the plaintiffs in this case the people who were terminated by Mr. Leu on January 3rd, do they continue to remain members in good standing of Local 20? A. Yes.

* * * * *

[51] Q. Now, two of the plaintiffs in this case, Mr. Starkey and Jim Root, were both elected officers of Local 20 in the December, 1977, election, were they not? A. Yes.

Q. Can you tell us to what offices they were elected?

* * * * *

A. Mr. James Root was elected vice-president of Teamsters' Local 20, and Mr. Starkey was elected to one of the trustee positions.

Q. Prior to January 3rd both of them were appointed business agents? A. Yes, full time business agents.

Q. And after January 3rd they were terminated [52] along with the other plaintiffs. A. That is correct.

* * * * *

[54] RE-CROSS EXAMINATION

By Mr. Gallon:

* * * * *

Q. Now, you indicated that the various plaintiffs, that those that were not officials or officers were discharged on January 3rd. Am I correct that since that time these plaintiffs have been treated like any other member; they have been denied no rights of membership to your knowledge? A. Not to my knowledge.

* * * * *

[55] Q. You indicated that there were two elected officers who were also business agents and plaintiffs, Mr. Root and Mr. Starkey; am I correct about that? A. Yes.

Q. Since they have been discharged as business agents have they been treated any different than any other officer? A. Not to my knowledge.

* * * * *

[58] THEREUPON, the Plaintiffs called as a witness, MR. DENVER PHILLIPS, who, having been previously duly sworn by the Clerk, testified as follows:

DIRECT EXAMINATION

By Mr. Lackey:

Q. Your name and address, please. A. Denver Phillips, Route 5, Bryan, Ohio.

Q. Where are you employed? A. Now?

Q. Yes. A. Nowhere.

Q. Prior to January 3rd where were you employed? A. Teamsters' Local 20.

Q. What was your position there? A. As business agent.

Q. How long had you been so employed? A. Since September, 1975, approximately two and a half years.

Q. Now, Mr. Phillips, can you recall January 3, 1978, and the events of that day? A. Yes, I can.

Q. Can you tell us briefly what happened on that day, to the best of your recollection? A. Well, I arrived at the Bryan office, which I [59] work out of, at eight o'clock and I received a phone call from Toledo stating that I was wanted in Toledo for a meeting at eight-thirty. Well, it was impossible to be there by eight-thirty, so I got in the car and I got to Toledo at about nine-fifteen or nine-thirty. The meeting was over at that time.

Q. What meeting was that? A. That was a staff meeting. That's all I knew. I have no idea what the meeting was for. It is just that at various times in the last two and a half years Mr. Brown would call and say, "We have a meeting" and I would go, and I didn't see that there would be any difference in Mr. Leu.

Q. What happened then? A. I seen some of the other agents there. I said, "What is going on?" They said, "Mr. Leu wants to see you." I found him on the hallway stairs by Dan Farbrother's office. He and I went into Mr. Farbrother's office, closed the door, and there was a little chitchat. Then he said, "You're fired." I said, "Why?" He said, "You're too loyal to Omar Brown."

* * * * *

[60] CROSS EXAMINATION

By Mr. Gallon:

* * * * *

Q. Isn't it true that subsequent to that meeting you have been, as a member of the union, going into various shops in the Bryan area to talk to members of the union?

* * * * *

[61] A. You mean since January 3rd?

Q. Yes. A. Yes, I have.

* * * * *

Q. But the union has not interfered with your activities going in and out of shops and talking to other union members? A. No.

Q. And you have been in the Teamsters' building in Toledo and Bryan? A. Yes.

Q. And no one has interfered with that right to have meetings with other plaintiffs or other members of the union? A. No.

* * * * *

[64] THEREUPON, the Plaintiffs called as a witness, MR. HARRY STARKEY, who, having been previously duly sworn by the Clerk, testified as follows:

DIRECT EXAMINATION

By Mr. Lackey:

Q. Would you state your name and address, please, to the court? A. Harry Starkey, Oregon, Ohio.

Q. Are you presently employed? A. No.

Q. Prior to January 3rd were you employed? A. Yes.

Q. In what capacity? A. As business agent for Local 20.

Q. For how many years were you such business agent? A. I worked there about eight months of 1974, and almost two and a half years when Mr. Brown got elected.

Q. Do you also have an elected position in Local 20? A. Yes.

Q. As what? A. As trustee.

[65] Q. Calling your attention to January 3rd, Mr. Starkey, can you briefly tell the Court what occurred to you on the morning of January 3rd, if anything? A. Well, the morning of January 3rd, I went to the Fremont Office early in the morning.

Q. On your regular business? A. Yes, and we got a call on the radio and by phone to come back to Toledo.

Q. Did you do that? A. Yes; we got back a little after ten o'clock.

Q. Who is "we"? A. Charles Winters and myself worked out of Fremont.

Q. What did you find when you got to Toledo? A. We walked into the building and there was a lot of our friends and associates on hand. We asked them what was

going on. One guy said, "Go on into the library and he will talk to you." We went into the library.

Q. Who is "we"? A. Charlie, myself and I think Denver went into the library, and Don Sarver came in the library.

Q. Did you talk with Mr. Leu that morning? A. Yes. I ran into him in the hall and we went in the attorney's office and he told me I was fired.

Q. Is that all he said? [66] A. Well, he says, "I know you are a Brown supporter and you are true to Brown, and I am terminating you."

* * * * *

CROSS EXAMINATION

By Mr. Gallon:

* * * * *

Q. Didn't you say to him that you didn't blame him, that you probably would have done the same thing if you had been in his position? A. I might have said that, yes.

* * * * *

Q. Didn't you understand that the appointed office you had was held at the pleasure of the president? A. That is true.

* * * * *

[67] Q. Since your discharge nobody has interfered with your ability to come and go into the building of the teamsters? A. No.

Q. And you have been able to talk to other members? A. Yes.

Q. Haven't you been active in objecting to the election that just took place? A. Definitely.

Q. And talking to members about it? A. Yes.

Q. And getting petitions signed? A. Yes.

Q. And your discharge did not interfere with that? A. No.

* * * * *

[70] THEREUPON, the plaintiffs called as a witness, MR. RAYMOND NAVARRO, who, having been previously duly sworn by the Clerk, testified as follows:

DIRECT EXAMINATION

By Mr. Lackey:

Q. Your name and address, please. A. Raymond Navarro, 1120 Yates, Toledo.

Q. Are you unemployed as of today? A. Yes.

Q. Prior to January 3rd, where were you employed? A. Teamsters' Local 20.

Q. And prior to that where were you employed? A. Interstate Motor Freight.

Q. How long have you been a business agent, or how long were you a business agent for Local 20? A. Since September, 1975.

Q. Were you able as business agent to preserve your seniority rights with Interstate Motor Freight? A. No, I was not.

Q. So you may not go back to Interstate Motor Freight with your accumulated seniority, is that right? A. Correct.

Q. Can you tell us what happened on January 3rd? A. I got to the hall about seven-fifteen or so. [71] I had some paper work to do. Harold had come in. I don't know who told me, but somebody said there would be a staff meeting at eight-thirty. It came on the intercom. So I went to the staff meeting.

Q. What did you see or find there? A. There were different people I knew as members there. Harold took the platform and told us we was all terminated.

Q. Did he assign reasons for the termination? A. Verbatim I can't tell you, but he said that during the campaign no one had contacted him personally and his family had been hurt by it.

He went on to say that he knew that we was all loyal to Omar and therefore he was going to terminate us. He said he had to surround himself with people who were going to be loyal to him, and he pointed out people to my right.

Q. Is that the extent of your conversation with Mr. Leu? A. Yes.

Q. Is that the extent of your conversation with Mr. Leu throughout the entire campaign? A. I had a conversation with him another time, and he told me at that time he heard that I was doing a good job and he wanted me to keep it up. I thanked [72] him for it.

Q. Did you campaign on behalf of Omar Brown? A. Yes, I did.

* * * * *

CROSS EXAMINATION

By Mr. Gallon:

* * * * *

[73] Q. Isn't it true that Harold Leu made a big point about the fact that he was there because he was able to convince a majority of the members that they were not given good representation before? A. Something like that, yes.

Q. And didn't he indicate that he was obligated to give to the membership the best representation that he could? A. Yes.

Q. And did you go up to Leu afterward to indicate to him that you thought you could carry out his policies? A. No, I did not.

* * * * *

[75] DEFENDANTS' EVIDENCE

THEREUPON, the Defendants called as a witness, MR. HAROLD LEU, who, having been previously duly sworn by the Clerk, testified as follows:

DIRECT EXAMINATION

By Mr. Gallon:

Q. Would you please give the Court your name and address? A. Harold Leu, 600 Lynwood, Delta, Ohio.

Q. By who are you employed? A. Teamsters' Local 20.

Q. In what capacity? A. President.

* * * * *

[77] Q. (Continuing) Did you have occasion while you were a candidate to observe the job being done by the various business agents for Omar Brown? A. Yes, I did.

Q. During that campaign did you make any campaign promises as to what you would do if you were elected? A. Yes.

Q. What was your chief issue in that campaign? A. Service and representation to the members.

* * * * *

[79] Q. When you were in the union hall did you observe what the business agents were doing who were not officers of the union? A. Yes, I did.

Q. What were they doing? [80] A. Every time—not every time, but most of the time I was going from one end of the hall to the other. When we took a break to get a cup of coffee the business agents and staff members of Local 20 were constantly in the building, and the officers were congregated in the rooms carrying on conversations.

* * * * *

Q. Yes. Is that what they normally do? A. In my opinion, no.

Q. What do they normally do? A. The business agent is to be in the field representing the members, taking care of the problems.

Q. And did you arrive at a decision prior to January 3rd as to which business agents you would keep and which you would not keep? [81] A. I did.

Q. What criteria did you use? A. Based on experience, based on their ability to work under the president of Local 20, being myself, and also based on many activities in the past 2 years I became directly involved with members of Local 20.

Q. What were the reasons why you discharged the plaintiffs? A. Several reasons. As I tried to explain to them, I respected their loyalty and the campaign activity that they did for Omar Brown, but since I was elected president experience and loyalty were what I needed to perform the services and follow through with the campaign commitments that I made to the membership regarding service and representation, that I was convinced and made the decision that they could not hold their jobs.

Q. Is that what you advised them on January 3rd? A. Yes. I told them that there was nothing personal in it, that I expected them to follow any procedure that they were entitled to as members of the union, and I hoped they would not take it personal.

Q. Do you remember a conversation on January 3rd with Denver Phillips? A. Some of it, yes.

Q. You heard him testify today; is that an accurate [82] description of what you told him on January 3rd? A. There was more to it than what I heard.

Q. What did you say, to your recollection? A. I tried to explain to Mr. Phillips the reasons why. This was in the area of non-representation, in the area of not being able to follow me as a loyal business agent and an employee of the union, and based on that I did not need him as a business agent, that he would receive pay for another week, and his welfare would remain, and that was it.

Q. Did you talk with Mr. Starkey? A. Yes.

Q. You heard him testify here? A. Yes.

Q. Did he give an accurate representation of what you said to him? A. Except for the fact that he again did not—I did not hear him say that I did explain in detail the campaign, the issue of representation, and I did not feel that he could represent the people properly under my leadership.

Q. How about Ray Navarro, did you speak with him? A. Only at the staff meeting.

* * * * *

[83] CROSS EXAMINATION

By Mr. Lackey:

Q. Mr. Leu, after your defeat to Omar Brown in December, 1975, you were not fired by Mr. Brown, were you? A. Absolutely not.

Q. In other words, you were just not hired by him as a business agent, is that correct? A. The president is automatically eliminated upon the loss of an election.

Q. So you held no position from which to be fired after you lost the 1975 election, right? A. Yes.

Q. The fact is Omar Brown did not fire any business agent formerly employed by you when you were president, is that correct? A. That is correct.

* * * * *

[84] Q. And it was clear to you that the business agents employed by President Brown were supporting him for the presidency of Local 20? A. Yes.

* * * * *

[90] Q. Were those records having to do with the qualifications of the business agents you discharged on January 3rd? Did you ever ask for any records about their qualifications? A. No sir.

Q. You don't deny, do you, Mr. Leu, that in the meeting of January 3rd, the staff meeting where you terminated these employees—did you advise those business agents you terminated that you were upset because a lot of things were said during the campaign, and they never came to you and said, "Well, that is just campaigning," and do you remember saying that it hurt your family? [91] A. Words to that effect, yes.

Q. And do you remember saying, "There is no way you can work with my staff or you can work with me as president feeling as you do"; do you remember that? A. No.

Q. You don't remember saying, "But in the meantime there is no way possible you can work with my parties, and there is a winner and there is a loser"; do you remember saying those words? A. Not verbatim, no.

Q. Do you remember saying words to that effect? A. No sir. Well, to that effect. I will have to correct my answer; to that effect, yes.

Q. Do you remember saying as well that you are going to need to be surrounded by people who can work

under you and be loyal to you; do you remember those words, words to that effect? A. Yes.

Q. Now, most of the people you replaced had at least two years as business agents; is it fair to say that, Mr. Leu? A. Yes.

* * * * *

[92] Q. Is it your testimony today that you did not [93] have the second conversation with Ray Navarro other than the one on January 3rd with regard to his abilities as a business agent; is this your testimony today? A. You know, to my recollection I had talked to Ray, but whether I said to him those exact words I can't remember.

* * * * *

Q. Does he represent the members as you would expect a business agent to represent the members? A. Not under my request and not under my responsibilities as president, no.

Q. How would he be different under your administration? What would he do differently than he was doing when he was a business agent for Mr. Brown?

* * * * *

[94] A. He would be responsible to me as the president to follow the instructions of the business agents along the lines of reporting, along the lines of answering phone calls, along the lines of resolving grievances, and over the past two and a half years I have had many occasions where grievances have not been processed quickly and properly, related to me by members of Local 20 regarding this particular management.

* * * * *

[96] REBUTTAL EVIDENCE

THEREUPON, the plaintiffs called as a witness on rebuttal, MR. DANIEL G. FARBROTHER, who, having been previously duly sworn by the Clerk, testified further as follows:

DIRECT EXAMINATION

By Mr. Lackey:

Q. Mr. Farbrother, in your capacity as administrative assistant to President Brown when he was president of Local 20 you testified that you had day-to-day contact with the business agents who are plaintiffs in this lawsuit today? A. That is correct.

Q. Are you aware of any arrangements that they may have made with their previous employers so that in the event of their termination of employment at Local 20 they could go back to their former employment? A. Out of the entire group there was only four of them that were able to return to their former positions because of being able to maintain a leave of absence, and the remainder have no jobs and must seek employment somewhere else.

* * * * *

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title Omitted in Printing)

ANSWER

(Filed January 31, 1978)

Now comes the defendant, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 20 (hereinafter Local 20), answering plaintiffs' Complaint. Wherefore, this responsive pleading shall be numbered 1 through 15 to correspond with the paragraphs of the Complaint. The defendant denies generally all of the averments. Specifically, the defendant asserts the following:

1. Admits that the Complaint purports to redress a violation of the Labor-Management Reporting and Disclosure Act, 29 U.S.C.A. Section 401, et seq., Pub. L. 86-257, section 2, Sept. 14, 1959, 73 Stat. 519. Denies that the defendants violated any of the federal statutes referred to herein. Denies that this Court has jurisdiction over this matter.

2. Admits the allegations contained in the Second paragraph of the Complaint.

3. Admits the allegations contained in the Third paragraph of the Complaint.

4. Admits the allegations contained in the Fourth paragraph of the Complaint.

5. Admits that Harold Leu was duly elected President of Local 20 and took office on January 1, 1978. Denies

the remainder of the Fifth paragraph for want of sufficient knowledge.

6. Admits that Harold Leu discharged from employment as business agents each of the plaintiffs. Denies the other allegations in the Sixth paragraph.

7. Admits that the plaintiff incorporates and realleges the paragraphs 1 through 6 of their Complaint. Defendant preserves all of the above stated denials and defenses in paragraphs 1 through 6.

8. Denies the averments and allegations proffered in the eighth paragraph of the Complaint.

9. Admits that the plaintiffs incorporate and realleges the paragraphs 1 through 8 of their Complaint. Defendant preserves all of the above stated denials and defenses in paragraphs 1 through 8.

10. Denies averments and allegations proffered in the tenth paragraph of the Complaint.

11. Admits that the plaintiffs incorporate and reallege the paragraphs 1 through 10 of their Complaint. Defendants preserve all of the above stated denials and defenses in paragraphs 1 through 10.

12. Denies the averments and allegations proffered in the twelfth paragraph of the Complaint.

13. Denies the averments and allegations proffered in the thirteenth paragraph of the Complaint.

14. Admits that the plaintiffs have filed internal union charges. Denies that an adequate and complete remedy could not exist under the Constitution and By-Laws of either the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, or Local 20.

15. Denies the averments and allegations proffered in the fifteenth paragraph of the Complaint.

FIRST AFFIRMATIVE DEFENSE

16. Adopts by reference as if the same were fully rewritten herein the admissions, denials and averments of paragraphs one through fifteen.

17. Aver that the Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

18. Adopts by reference as if the same were fully rewritten herein the admissions, denials and averments of paragraphs one through seventeen.

19. Aver that this Court lacks jurisdiction over the subject matter of this action.

THIRD AFFIRMATIVE DEFENSE

20. Adopts by reference as if the same were fully rewritten herein the admissions, denials, and averments of paragraphs one through nineteen.

21. Aver that there is a misjoinder of parties defendant.

FOURTH AFFIRMATIVE DEFENSE

22. Adopts by reference as if the same were fully rewritten herein the admissions, denials and averments of paragraphs one through twenty-one.

23. Aver that there is a misjoinder of parties plaintiff.

FIFTH AFFIRMATIVE DEFENSE

24. Adopts by reference as if the same were fully rewritten herein the admissions, denials, and averments of paragraphs 1 through 23.

25. Aver that the plaintiffs can not maintain a cause of action in this Court until they exhaust their internal union remedies.

SIXTH AFFIRMATIVE DEFENSE

26. Adopts by reference as if the same were fully rewritten herein the admissions, denials, and averments of paragraphs 1 through 25.

27. Injunctive relief is improper since there is an adequate remedy at law available, if the plaintiffs are entitled to any remedy at all.

SEVENTH AFFIRMATIVE DEFENSE

28. Adopts by reference as if the same were fully rewritten herein the admissions, denials, and averments of paragraphs 1 through 27.

29. There are no grounds to support this action.

WHEREFORE, defendant, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 20, prays that the Complaint be dismissed with prejudice, that the plaintiffs' demands for relief be denied in their entirety and that the Court enter Judgment for the defendant including costs herein expended including attorney fees, and for such other relief as the Court deems to be just and proper.

Respectfully submitted,

GALLON, KALNIZ & IORIO CO., LPA
By /s/ JACK GALLON
By TED IORIO
By /s/ JOSEPH J. ALLOTTA
By /s/ JEFFREY JULIUS

IN THE FEDERAL DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title Omitted in Printing)

MOTION FOR SUMMARY JUDGMENT OF LOCAL 20

(Filed August 25, 1978)

Now comes defendant International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 20, by and through its attorney, GALLON, KALNIZ & IORIO CO., L.P.A., and respectfully moves for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure on the ground that there exists no material issue of fact and defendant is entitled to summary judgment as a matter of law. This motion is supported by the attached memorandum in support and the depositions of plaintiffs.

Respectfully submitted,

GALLON, KALNIZ & IORIO CO., L.P.A.
By /s/ JOSEPH J. ALLOTTA
3161 N. Republic Boulevard
Toledo, Ohio 43615
419 535-1976

AFFIDAVIT OF HAROLD D. LEU

STATE OF OHIO)
) SS:
COUNTY OF LUCAS)

I, Harold D. Leu, being first duly sworn depose and say from personal knowledge:

1. that I am President of International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, Local Union No. 20;

2. that I removed all plaintiffs in the above-captioned matter from their appointive positions on January 3, 1978 as business agents from IBT Local 20 for the reason that plaintiffs refused to support my presidency and its programs;

3. that plaintiffs Root and Navarro have since the institution of the above-captioned matter indicated to the affiant that they are now willing to support the policies and programs of my administration;

4. that the affiant has appointed plaintiffs Root and Navarro as business agents for IBT Local 20 as a result of this showing of their willingness to support my administration.

Further affiant sayeth not.

/s/ HAROLD D. LEU

Sworn before me and subscribed in my presence this 24 day of August, 1978.

/s/ RAY S. SINNES
Notary Public

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title omitted in printing)

MOTION FOR SUMMARY JUDGMENT OF OF HAROLD LEU

(Filed August 31, 1979)

Now comes defendant Harold Leu, by and through his attorney, Richard Hasbrook, and respectfully moves for summary judgment in this case pursuant to Rule 56 of the Federal Rules of Civil Procedure on the ground that there exists no material issue of fact and defendant is therefore entitled to summary judgment as a matter of law. This motion is supported by the depositions of plaintiffs and the attached memorandum in support.

Respectfully submitted,

RICHARD HASBROOK

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title Omitted in Printing)

DEPOSITION OF RAYMOND NAVARRO

(Filed August 31, 1978)

Deposition of RAYMOND NAVARRO, a Plaintiff herein, called by the Defendants as if upon Cross Examination under the Federal Rules of Civil Procedure, taken before me, the undersigned, Kathleen M. Carey, a Notary Public within and for the State of Ohio, pursuant to agreement and stipulations of Counsel hereinafter set forth, at the offices of Gallon, Kalniz & Iorio, 3161 North Republic Boulevard, Toledo, Ohio, on Wednesday, February 15, 1978, at 10:15 o'clock a.m.

* * * * *

[4] CROSS EXAMINATION

By Mr. Allotta:

* * * * *

[61] Q. Have you been prevented from discussing any matters or any policies with any Teamster members? A. What do you mean?

Q. When you indicated you had some discussions with people coming in and phone calls and things like that, has anyone told you— A. I didn't say I was taking care of the problems.

Q. I realize that. Has anyone prevented you from talking with another Teamster Local 20 member? A. No.

*

Q. Have you been in the Union Hall since January 3, 1978? A. Plenty of times.

Q. And what was the reasons that you went into the Union Hall? A. I got a lot of friends there. Take care of business at the Credit Union, dues office, insurance.

Q. Were you ever prevented from going into the Union Hall? A. No.

[62] Q. Have you met with other Local 20 members at the Union Hall? A. What do you mean have I met with them?

Q. You said you've been there plenty of times. Have you ever met with other Local 20 people when you were in the Union Hall? A. Sure have.

Q. Were you ever prevented from meeting with any of them? A. No.

Q. Have you voiced your opinion on the individuals who are now the officers of Local 20? A. Yes, I have.

Q. Have you ever been prevented from voicing your opinions? A. Nope.

Q. Do you believe the present officers are performing their duties properly?

Mr. Bolotin: Objection. You may answer.

A. Some.

Q. Which ones ? A. Officers?

* * * * *

[65] Q. Others, but you may not recall names? A. Correct.

Q. Have you been prevented from circulating those petitions? A. No.

Q. Have other members of Local 20 signed those petitions? A. Yes, they have.

Q. Have they been prevented from signing the petitions? A. To the best of my knowledge, no.

Q. What do you do with the petitions after you have them signed? A. Mail them.

Q. Excuse me? A. Mail them.

Q. To where? A. Presser's office in Cleveland.

Q. Do you personally mail them, or do you give them to somebody else? A. I personally mail them.

* * * * *

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title omitted in printing)

DEPOSITION OF DENVER PHILLIPS

(Filed August 31, 1978)

Excerpt of the deposition of DENVER PHILLIPS, a Plaintiff herein, called by the Defendants as if upon Cross Examination under the Federal Rules of Civil Procedure, taken before me, the undersigned, Christine A. Ardley, a Notary Public in and for the State of Ohio, at the offices of Gallon, Kalniz & Iorio, 3161 North Republic Boulevard, Toledo, Ohio, on Wednesday, April 12, 1978, at 11:25 o'clock a.m.

* * * * *

[2] CROSS EXAMINATION

By Mr. Allotta:

* * * * *

[8] Q. Now, were you elected or appointed to the position as Business Agent? A. I was appointed.

Q. By Mr. Brown? A. Yes.

* * * * *

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title omitted in printing)

DEPOSITION OF CHARLES WINTERS

(Filed August 31, 1978)

Excerpt of the deposition of CHARLES WINTERS, a Plaintiff herein, called by the Defendants as if upon Cross Examination under the Federal Rules of Civil Procedure, taken before me, the undersigned, Christine A. Ardley, a Notary Public in and for the State of Ohio, at the offices of Gallon, Kalniz & Iorio, 3161 North Republic Boulevard, Toledo, Ohio, on Wednesday, April 12, 1978, at 9:05 o'clock a.m.

• • • • •

[2] CROSS EXAMINATION

By Mr. Allotta:

• • • • •

[13] Q. Were you elected as a Business Agent? A. No, appointed.

Q. By Mr. Brown? A. By Mr. Brown.

• • • • •

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title omitted in printing)

DEPOSITION OF RONALD BOWMAN

(Filed August 31, 1978)

Partial deposition of RONALD BOWMAN, a Plaintiff herein, called by the Defendant as if upon Cross Examination, under the Federal Rules of Civil Procedure, taken before me, the undersigned, Kimberlee A. Collins, a Notary Public in and for the State of Ohio, pursuant to stipulations of Counsel as hereinafter set forth, at the offices of Gallon, Kalniz & Iorio, 3161 North Republic Boulevard, Toledo, Ohio, on Friday, April 7, 1978, at 9:05 o'clock a.m.

* * * * *

[2] CROSS EXAMINATION

By Mr. Allotta:

* * * * *

[4] Q. Were you elected as a Business Agent? A. No.

Q. Mr. Brown appointed you? A. Yes.

* * * * *

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title omitted in printing)

DEPOSITION OF JOHN CLARK

(Filed August 31, 1978)

Partial deposition of JOHN CLARK, a Plaintiff herein, called by the Defendants as if upon Cross Examination, under the Federal Rules of Civil Procedure, taken before me, the undersigned, Kimberlee A. Collins, a Notary Public in and for the State of Ohio, pursuant to stipulations of Counsel as hereinafter set forth, at the offices of Gallon, Kalniz & Iorio, 3161 North Republic Boulevard, Toledo, Ohio, on Wednesday, April 5, 1978, at 11:35 o'clock a.m.

* * * * *

[2] CROSS EXAMINATION

By Mr. Allotta:

* * * * *

[4] Q. Did you become a member of the Teamsters blood bank? A. Yes.

Q. Do you remember approximately when that was? A. I believe it was in December of '76.

Q. Are you still a member? A. Yes, as far as I know. As far as I know.

Q. Did you make use of the legal defense fund while you were employed by the City of Toledo? A. I don't think I had an opportunity to use it.

Q. Were you prevented from using it? A. No.

Q. So then your next employment was as a Business Agent for Local 20 beginning on July 11th, 1977, correct? A. Right.

Q. Okay. How did your becoming a Business Agent occur? A. What do you mean?

Q. When were you first approached about it? [5] A. Oh, I'd say early '77.

Q. Who approached you? A. Omar Brown.

Q. What was the conversation, or what did you talk about when you first started thinking—when he first approached you about being a Business Agent? A. Well, he told me he was expanding the organizing department, and he thought about putting me in as an organizer.

Q. What was your reaction or response to that? A. That I might be glad to do the job, and I'd do the job to the best of my ability.

Q. Then did anything else come of it? I mean, did any other events occur before July 11th? A. No, not really.

Q. You didn't have too many other conversations about it? A. No.

* * * * *

[10] Q. Now, when you first began in July, in that period of time, as you were an organizer, that's all you did. In other words, you didn't handle any grievances or meetings with employers that had Local 20 representatives already? A. No, I didn't.

Q. When you first began in July, were you elected or appointed? A. Appointed.

* * * * *

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title omitted in printing)

DEPOSITION OF DONALD FINNEGAN

(Filed August 31, 1978)

Partial deposition of DONALD FINNEGAN, a Plaintiff herein, called by the Defendants as if upon Cross Examination, under the Federal Rules of Civil Procedure, taken before me, the undersigned, Kimberlee A. Collins, a Notary Public in and for the State of Ohio, pursuant to stipulations of Counsel as hereinafter set forth, at the offices of Gallon, Kalniz & Iorio, 3161 North Republic Boulevard, Toledo, Ohio, on Wednesday, April 5, 1978, at 9:05 o'clock a.m.

* * * * *

[2] CROSS EXAMINATION

By Mr. Allotta:

* * * * *

[5] Q. Was he the Business Agent the entire time? A. That's correct.

Q. Did you fill out any application to be selected as a Business Agent? A. I did.

Q. Is that application one of the records at the Union Hall? A. It should be.

Q. When approximately did you fill out the application? A. Approximately July or August of that year when we saw that Mr. Brown had a pretty good chance of winning the election.

Q. So that was prior to the actual results of the election? A. That's correct.

Q. The second one. A. Mr. Brown was screening some people prior to the final results of the election trying to get all of his ducks in a row so that if he was elected he'd have some people to go in and take over.

* * * * *

[7] Q. Were you elected to that position? A. No, I was hired.

Q. Were you hired and appointed by Mr. Brown? A. That's correct.

* * * * *

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title omitted in printing)

DEPOSITION OF LEVERNON HUBBARD

(Filed August 31, 1978)

Excerpt of the deposition of LEVERNON HUBBARD, a Plaintiff herein, called by the Defendants as if upon Cross Examination under the Federal Rules of Civil Procedure, taken before me, the undersigned, Dianne Steindam, a Notary Public in and for the State of Ohio, at the offices of Gallon, Kalniz & Iorio, 3161 North Republic, Toledo, Ohio, on Thursday, March 23, 1978, at 10:30 o'clock a.m.

* * * * *

[2] CROSS EXAMINATION

By Mr. Allotta:

* * * * *

[5] Q. Were you elected or appointed as the Business Agent? A. I was appointed.

Q. And that was an appointment by Mr. Brown? A. Correct.

* * * * *

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title Omitted in Printing)

DEPOSITION OF DONALD JAHNS

(Filed August 31, 1978)

Deposition of DONALD JAHNS, a Plaintiff herein, called by the Defendants as if upon Cross Examination under the Federal Rules of Civil Procedure, taken before me, the undersigned, Dianne Steindam, a Notary Public in and for the State of Ohio, at the offices of Gallon, Kalniz & Iorio, 3161 N. Republic, Toledo, Ohio, on Thursday, March 23, 1978, at 9:15 o'clock a.m.

* * * * *

[4] CROSS EXAMINATION

By Mr. Allotta:

* * * * *

[26] Q. Were you elected to the position as the Business Agent? A. No.

* * * * *

[27] Q. Now, did you sign an employment contract when you were hired as a Business Agent? A. An employment contract?

Q. Yes. In other words, did you sign a contract with Teamster's Local 20 that guaranteed your employment for a certain period of time? A. No.

* * * * *

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title Omitted in Printing)

DEPOSITION OF FRANK HOWALD

(Filed August 31, 1978)

Excerpt of the deposition of FRANK HOWALD, a Plaintiff herein, called by the Defendants as if upon Cross Examination under the Federal Rules of Civil Procedure, taken before me, the undersigned, Dianne Steindam, a Notary Public in and for the State of Ohio, at the offices of Gallon, Kalniz & Iorio, 3161 North Republic, Toledo, Ohio, on Monday, April 3, 1978, at 10:35 o'clock a.m.

* * * * *

[2] CROSS EXAMINATION

By Mr. Allotta:

* * * * *

[8] Q. Now, Mr. Howald, were you elected as a Business Agent? A. No, I was not.

Q. You were appointed by Mr. Brown? A. That's correct.

* * * * *

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title Omitted in Printing)

DEPOSITION OF RICHARD EDDINGTON

(Filed August 31, 1978)

Deposition of RICHARD EDDINGTON, a Plaintiff herein, called by the Defendants as if upon Cross Examination under the Federal Rules of Civil Procedure, taken before me, the undersigned, Dianne Steindam, a Notary Public in and for the State of Ohio, at the offices of Gallon, Kalniz & Iorio, 3161 N. Republic, Toledo, Ohio, on Monday, April 3, 1978, at 9:00 o'clock a.m.

* * * * *

[4] CROSS EXAMINATION

By Mr. Allotta:

* * * * *

[33] Q. Were you elected to the position as Business Agent? A. I was appointed by Omar Brown, President of Local 20.

* * * * *

[53] Q. Have you attended any Teamsters Union meetings since January 3rd, 1978? A. Yes, I have.

Q. Which ones? A. I have attended the Stewards' Council meeting. I believe there has been two.

[54] Q. Was that the one in February and in March? A. Yes, I believe so.

Q. You don't have a right to vote in the Stewards' Council meeting? A. No, I do not. That's something else that is definitely wrong. I am a member in good standing. I am a dues-paying member, and I don't have the right to voice my opinion, vote, or make a motion.

Q. At the Stewards' Council? A. At the Stewards' Council. I don't have a steward to represent me.

Q. Now, the questions I'm going to ask you, this just refers to the time since January 3rd, 1978. Have you remained a member of the Credit Union? A. Yes, I am.

Q. Has anyone tried to keep you from remaining a member of the Credit Union? A. I don't see how they could. The Credit Union is not part of Local 20. It's a separate organization.

Q. So no one has? A. Not to my knowledge.

* * * * *

[66] Q. Have you talked with any Local 20 members at your home or outside of the Union Hall? A. Yes, I have.

Q. Has anyone prevented you from having those discussions? A. Not in my home.

Q. Outside of the Union Hall? A. No. There was nobody—none of the staff around in Leu's conglomeration, from Leu's horse thieves.

Q. Are there any policies that are being implemented by Harold Leu that you disagree with? A. Yes, I do.

Q. Which ones? A. Paying Jack Gallon the kind of money he is paying him, the Easter party, wasting Union dues money for things like that. He's not supposed to be a social director. He's supposed to be a labor leader. The policy of not representing the membership, the policy of not organizing, the policy of pulling away from the United Labor Movement in the City of Toledo, a lot of things he's pulling.

Q. Are you in support of any of his policies? [67] A. Servicing the members, servicing Local 20, representing the members, yes, that I would be. But I don't believe he's doing it. And I definitely don't like his policy of giving away our membership to the Longshoremen because Ted Iorio represents the Longshoremen. We fought hard for those members. We organized them and now they're trying to give them away because Ted Iorio is the goddamn lawyer for the Longshoremen. It's the biggest sell out I've ever seen in the Labor Movement.

Q. How would you change the policies? A. How would I change the policies? I don't have the slightest idea. I have no desire to be President of that Local, but the main thing is to represent the membership, which is not being done.

Q. Do you feel Mr. Brown did? A. I don't feel that he did, I know he did. We have the dental center. We have good contracts, better wages, and in the two and a half years that has ever been had in that Local.

Q. Do you still— A. And he's honest.

* * * * *

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title omitted in printing)

DEPOSITION OF ROBERT HANEY

(Filed August 31, 1978)

Excerpt of the deposition of ROBERT HANEY, a Plaintiff herein, called by the Defendants as if upon Cross Examination under the Federal Rules of Civil Procedure, taken before me, the undersigned, Scott N. Gamertsfelder,

a Notary Public in and for the State of Ohio, at the offices of Gallon, Kalniz & Iorio, 3161 North Republic Boulevard, Toledo, Ohio, on Monday, April 10, 1978, at 10:55 o'clock a.m.

* * * * *

[2] CROSS EXAMINATION

By Mr. Allotta:

* * * * *

[4] Q. And when you became a Business Agent, were you elected? A. No, sir.

Q. Were you appointed? A. Yes, sir.

Q. By Mr. Brown? A. Yes, sir.

* * * * *

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title omitted in printing)

DEPOSITION OF WILLIAM TANK

(Filed August 31, 1978)

Excerpt of the deposition of WILLIAM TANK, a Plaintiff herein, called by the Defendants as if upon Cross Examination under the Federal Rules of Civil Procedure, taken before me, the undersigned, Scott N. Gamertsfelder, a Notary Public in and for the State of Ohio, at the offices of Gallon, Kalniz & Iorio, 3161 North Republic Boulevard, Toledo, Ohio, on Monday, April 10, 1978, at 9:00 o'clock a.m.

* * * * *

[2] CROSS EXAMINATION

By Mr. Allotta:

* * * * *

[6] Q. So, then you began work on September 18, 1975? A. (Witness indicated.)

Q. Were you elected to that position? A. No, appointed.

Q. And Mr. Brown appointed you? A. Right.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title omitted in printing)

DEPOSITION OF EDWARD STRICKLIN

(Filed August 31, 1978)

Deposition of EDWARD STRICKLIN, a Plaintiff herein, called by the Defendants as if upon Cross Examination, under the Federal Rules of Civil Procedure, taken before me, the undersigned, Kathleen M. Carey, a Notary Public in and for the State of Ohio, pursuant to stipulations of counsel as hereinafter set forth, at the offices of Gallon, Kalniz & Iorio, 3161 North Republic Boulevard, Toledo, Ohio, on Friday, March 17, 1978, at 9:00 o'clock a.m.

[2] CROSS EXAMINATION

By Mr. Allotta:

Q. And when did you begin as a Business Agent? A. September 17th of '75.

Q. Were you elected to the position? A. No, I was appointed.

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

(Title omitted in printing)

PLAINTIFFS' MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT

(Filed January 31, 1979)

I INTRODUCTORY

The Defendants in the instant action have filed simultaneous Motions for Summary Judgment pursuant to Rule 56 b of the Federal Rules of Civil Procedure alleging that they are entitled to judgment as a matter of law based upon the pleadings and the transcripts of Plaintiffs' depositions.[1] The excerpts of the depositions filed with the Court merely repeat a fact that Plaintiffs conceded during the hearing for preliminary injunctive relief, i.e., the Plaintiffs are all appointed rather than elected business agents. The Defendants avoid raising issues revealed in the depositions of Plaintiffs and merely reiterate the obvious by their filing of the excerpts.

* * * * *

1. It is interesting to note that the Defendants only filed one or two page excerpts of the Plaintiffs' depositions rather than filing the entire deposition. Counsel for Plaintiffs specifically recalls that several of the depositions contained testimony that demonstrated the hostile motive of Harold Leu in discharging the Plaintiffs for exercising their political support and expression for Omar L. Brown. These depositions were never ordered by the Defendants and counsel for Plaintiffs has been advised that the cost of the depositions alone is over $1,000.00. Since Plaintiffs cannot afford the prohibitive costs they are forced to rely upon affidavits some of which are attached hereto as exhibits.

"Question: (by Mr. Bolotin) Prior to January 3, the date of discharge, did you ever seek out any of the named Plaintiffs and ask them whether they would work under your administration?

Answer: (by Leu) No.

Q: Did you ever seek out Danny Farbrother, Jim Cassidy, Don Sarver, or Mary Jane Gill, and ask them whether, in your opinion, the named Plaintiffs would work under your administration?

A: No." Page 103.

The following is also illustrative:

"Q: (by Mr. Bolotin) Did you seek out, once you won the election and were installed, did you seek out any of the business agents that you discharged; that is, the named Plaintiffs, and ask them whether they would support your campaign, the platforms and so forth prior to your discharging them on January 3?

A: (by Mr. Leu) No.

Q: And isn't it true that between the time you were installed and the time that they were discharged that the named Plaintiffs did not oppose any of your platforms, openly give speeches, or oppose your platforms?

A: To the best of my knowledge, I don't know.

Q: And you didn't consider that when you made your decision to replace them, correct?

A: That's correct." Page 113.

* * * * *

AFFIDAVIT OF RONALD BOWMAN

I, Ronald Bowman, after being duly sworn hereby depose and state as follows:

1. I reside at 8910 U.S. 223, Ottawa Lake, Michigan.

2. I was a former business agent for Teamsters Local 20 under the Brown Administration.

3. Prior to becoming a business agent for the local union I was a steward at Jones Motor Company where I had 18 years of seniority as a truck driver.

4. As a steward I could participate and vote in all internal matters brought before the Stewards Council and therefore had a direct voice in the affairs of the local union.

5. As a business agent for Teamsters Local 20 I also could vote at all Stewards Council meetings on matters brought before it.

6. I was discharged by Harold Leu on January 3, 1978 in retaliation for my support of Omar L. Brown in the officers election.

7. After my discharge, I found that I could no longer participate in union matters because I no longer had a voice or vote in the Stewards Council.

8. I have information that Harold Leu is continuing to deny my rights as a union member by preventing me from being gainfully employed in the Teamster industry.

9. After being discharged, I sought employment from numerous Teamster employers. I had tremendous difficulty in finding a job and was finally hired by Preston Truck Lines. Francis Dixon, terminal manager, discharged me, however, before I could complete my probationary

period. He advised me that he was very satisfied with my work and my experience as a truck driver but because of the "situation at the union hall" he could not keep me. After I was discharged, Preston hired several other employees with no experience.

Further affiant saith naught.

/s/ RONALD BOWMAN

STATE OF OHIO)
) SS:
COUNTY OF LUCAS)

Sworn to and subscribed before me this 30 day of January, 1979.

/s/ SAM BOLOTIN
Notary Public

AFFIDAVIT OF BOBBY HANEY

I, Bobby Haney, after being duly sworn hereby depose and state as follows:

1. I reside at 2462 Olde Stone Ct., Apt 5, Toledo, Ohio.

2. I was employed as a Teamster business agent for Local 20 under the Brown Administration.

3. On January 3, 1978 I was discharged by Harold Leu for my political support and in retaliation for campaigning for Omar L. Brown in the officers election. Prior to becoming a business agent for Teamsters Local 20 I was employed as a truck driver for 18 years at Interstate Motor Freight Systems. I also was a steward at Interstate.

4. As a steward and as a business agent I had a voice and vote on all matters brought before the Stewards Council.

5. Since my discharge as a business agent, I no longer have a voice or vote in matters brought before this Stewards Council and therefore have no voice and vote in internal union affairs. I am presently no longer a steward for Teamsters Local 20.

6. After being discharged, I had a very difficult time finding any employment within the Teamster Industry. I had reason to believe that Harold D. Leu, in continuing his retaliation against me, blackballed me from the Teamster Industry. After my discharge, I applied for re-employment with Interstate Systems. I called Tom Shook, relay manager for Interstate, and inquired about re-employment. He told me that there was no way he could hire me because he had received a phone call. He implied that the phone call came from the union hall.

7. My employment within the Teamster industry has been sporadic and I have suffered severe financial harm and had to file bankruptcy.

Further affiant saith naught.

/s/ Bobby Haney

STATE OF OHIO)
) SS:
COUNTY OF LUCAS)

Sworn to and subscribed before me this 31 day of January, 1979.

/s/ Sam Bolotin
Notary Public

AFFIDAVIT OF LEVERNON HUBBARD

I, Levernon Hubbard, after being duly sworn hereby depose and state as follows:

1. I reside at 1919 Ottawa Drive, Toledo, Ohio.

2. I was formerly employed as a Teamster Business Agent under the presidency of Omar L. Brown.

3. On January 3, 1978, I was terminated by Harold Leu solely because of my political support for Omar Brown.

4. I have been blackballed from finding employment within the Teamsters industry and had been unable to hold a job more than for thirty (30) days which is the minimum in order to meet probationary employee requirements so that I can continue my membership in Teamsters Local 20. The reason that I know that I have been blackballed by Harold Leu and the present administration of Teamsters Local 20 is that I was told by Joe Brennen assistant terminal manager at Roadway Express that the reason Roadway was not going to allow me to work past my probationary period was because of pressure their company was receiving from the union hall under the Harold Leu administration.

5. I have been told by other individuals who have had conversations with management that the reasons they are not hiring me is because of pressure and an influence of the Harold Leu administration.

6. Prior to becoming a business agent for Teamsters Local 20 I was a steward at the H. J. Heinz Company. As a steward, I had a voice in the Stewards Council at Teamsters Local 20 and could vote on matters brought before it. When I became a business agent, I also could vote on matters that came before the Stewards Council and therefore had a voice in union affairs.

7. Since my discharge, I have lost my right to vote on matters before the Stewards Council since, although I am still a member of Teamsters Local 20, I am no longer a steward nor a business agent.

Further affiant saith naught.

/s/ LEVERNON HUBBARD

STATE OF OHIO)
) SS:
COUNTY OF LUCAS)

Sworn to and subscribed before me this 30th day of January, 1979.

/s/ SAM BOLOTIN
Notary Public

AFFIDAVIT OF DONALD FINNEGAN

I, Donald Finnegan, after being duly sworn hereby depose and state as follows:

1. I reside at 1708 South Shore, Oregon, Ohio 43618.

2. I was employed as a Teamsters business agent for Teamsters Local 20 under the Brown administration.

3. Prior to my employment with Teamsters Local 20, I was a steward and truck driver for Commercial Motor Freight. As a steward, I had a voice and vote in all matters brought before the Stewards Council.

4. As a business agent under the Brown Administration for Teamsters Local 20, I had a voice and vote on all matters brought before the Stewards Council. The Stewards Council is the governing body of the local union.

5. On January 3, 1978 I was discharged by Harold D. Leu because of my support for Omar Brown in the officers election. After being discharged as a business agent, I was unable to participate in the internal affairs of the local union because I could no longer vote on matters brought before the Stewards Council.

6. Since my discharge, I have found it impossible to find employment within the freight industry and stand to lose my pension benefits.

7. I finally found employment with Transportation Unlimited and after my probationary period was elected alternate Steward so since April 1, 1978 I have been able to participate in Stewards Council meetings.

8. Every time I attempt to speak on matters brought before the Stewards Council, the business agents presently employed by Harold D. Leu boo and shout me down and prevent me from exercising my voice on union matters.

Further affiant saith naught.

/s/ DONALD FINNEGAN

STATE OF OHIO)
) SS:
COUNTY OF LUCAS)

Sworn to and subscribed before me this 29 day of January, 1979.

/s/ SAM BOLOTIN
Notary Public

AFFIDAVIT OF HARRY STARKEY

I, Harry Starkey, after being duly sworn hereby depose and state as follows:

1. I reside at 1515 Toul, Oregon, Ohio.

2. I have been employed as a business agent for Teamsters Local 20 under presidents Free and Brown. I also was elected a trustee of a local union under the Brown Administration and am presently a trustee of Teamsters Local 20.

3. Prior to being hired as a business agent for Teamsters Local 20 I was a steward and truck driver for B & P and Dundee Truck Lines. As a steward, I had a voice and could vote in matters brought before the Stewards Council, the governing body of Teamsters Local 20. As a business agent for Teamsters Local 20 I also could vote and have a voice on matters brought before the Stewards Council. As a trustee, I still have a voice and vote in matters brought before the Stewards Council and also have a voice on matters brought before the Executive Board of Teamsters Local 20.

4. On January 3, 1978, I was discharged by Harold Leu for my political support of Omar Brown. Although I remained a trustee since I was voted into that office, I lost my office at the local union hall and no longer have the same access to the members that I had before. As such, Harold Leu has denied me access to the members and prevented me from actively participating in union affairs.

5. On several occasions I have not been notified of Executive Board meetings and have been unable to attend same. The Executive Board makes recommendations to the Stewards Council and is a vital part of the governing

of the Local Union. Indeed on one occasion they didn't notify me of an Executive Board meeting until the meeting was already over. Thus Harold Leu has been able to prevent me from participating in union affairs and denying me my voice and vote on the Executive Board for Teamsters Local 20.

6. I was unemployed for six months after being discharged by Harold Leu and had great difficulty in finding employment within the Teamster industry. I presently am employed. However, because of the grave financial injury incurred to myself and family have had a very difficult time in attending union matters and participating as freely in the affairs of the union as I did before my discharge.

Further affiant saith naught.

/s/ HARRY STARKEY

STATE OF OHIO)
) SS:
COUNTY OF LUCAS)

Sworn to and subscribed before me this 31st day of January, 1979.

/s/ SAM BOLOTIN
Notary Public

Civil Action No. C78-8

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF OHIO

WESTERN DIVISION

RAYMOND NAVARRO, *et al.*,
Plaintiffs,

VS.

HAROLD LEU, *et al.*,
Defendants.

OPINION AND ORDER

Note:

The Opinion and Order of the United States District Court is printed in the Petition for Certiorari at page A4.

No. 79-3415

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

RAYMOND NAVARRO, *et al.*,
Plaintiffs-Appellants,

v.

HAROLD D. LEU, *et al.*,
Defendants-Appellees.

ORDER

Note:

The Opinion and Order of the United States Court of Appeals for the Sixth Circuit is printed in the Petition for Certiorari at page A1.